

reference to the network link while concealing the network link from the buyer,

the instructions further causing the computer to convey the item via an advertiser among the plurality of different advertisers to the buyer in response to an order received from the advertiser for supply of the item to the buyer responsive to invocation of the link in the advertisement by the buyer, the order comprising a message including the respective alias of the advertiser, and to receive payment from the buyer for the item, while a predefined portion of the price is paid to the advertiser in consideration for posting the advertisement, in accordance with the terms of advertising.

REMARKS

This application contains claims 1-35. Claims 7, 8, 10, 21 and 22 have been canceled, while claims 1, 9, 15, 24, 27, 30 and 33 are amended. Reconsideration is respectfully requested.

~~Applicant thanks Examiner Abdi for the courtesy of a~~ telephone interview granted to applicant's representative, Daniel Kligler (Reg. No. 41,120) on April 25, 2003. The Examiner indicated that he would prepare an Interview Summary.

Claims 15, 16, 20, 27, 28, 33 and 34 were rejected under 35 U.S.C. 102(e) over Messer (U.S. Patent 5,991,740) and over Barber (U.S. Patent 6,157,917). While disagreeing with the grounds of rejection of these claims, applicant has amended claims 15, 27 and 33 in order to focus on a particular aspect of the present invention which is believed to be clearly distinct over the cited art. The amended claims incorporate the

limitations of claims 7, 8, 10, 21 and 22, now canceled, along with additional clarifying language based on the specification (page 14, lines 8-18). Applicant reserves the right to reintroduce broader claim language in a continuation of the present patent application.

~~Barber describes a method for charging for pay-per-access information on a network. In his patent, Barber proposes to use an "acquirer" to reduce the network bandwidth required in transferring small payments between a payer, a payee and an issuer. In the embodiments described by Barber, the payee is a Web site operator, who offers information for sale; the payer is a computer user who purchases the information from the Web site operator; and the issuer is a service that manages a payer database. The acquirer stores and retrieves information about the payer's account with the issuer, in the form of a dynamic data object, like a cookie, on the payer's computer. The acquirer intercepts the payer's requests for information from the payee's Web site. The acquirer then processes the payer's accounting~~
~~information using the dynamic data object, and redirects~~
the payer to the payee's Web site to receive the requested information.

Claim 15 as amended recites a method for electronic commerce by a merchant, who offers an item for purchase by a buyer on a page-per-fee basis via a network link. The merchant assigns a respective alias to each of a plurality of different advertisers, so that each advertiser has his own specific alias. In other words, the merchant provides a plurality of different aliases, all representing the same network address of the same item. Each advertiser posts an advertisement containing his respective alias, which serves as a reference to the

network link while concealing the network link from the buyer. The buyer may purchase the item by invoking the link in any of the advertisements. This causes the advertiser to submit an order to the merchant, wherein the order includes the advertiser's specific alias. Thus, upon receiving the order, the merchant can use the alias in order to identify both the item requested and the advertiser.

In response to the order, the merchant conveys the item, via the advertiser, to the buyer. The merchant receives payment from the buyer, while a predefined portion of the purchase price is paid to the advertiser in consideration for posting the advertisement, in accordance with advertising terms that were defined by the merchant.

In rejecting the claims in the present patent application, the Examiner drew an analogy between Barber's "acquirer" and the "advertiser" recited in the claims. Applicant takes issue with this analogy, since the purpose of Barber's acquirer is not to advertise anything, ~~but rather to facilitate payment from the buyer~~ ("payer") to the merchant ("payee"). As pointed out by the Examiner, Barber does make passing mention of a "reseller," who receives credit for referrals (col. 5, lines 25-28), but this is clearly a different entity and a different function from Barber's acquirer.

Even if it were conceded that "acquirer" and "advertiser" are equivalent concepts, however, Barber still makes no suggestion that aliases might be used in the manner recited by amended claim 15. As pointed out by the Examiner, Barber does teach that the acquirer may use a table of aliases to refer to different target addresses on the payee's Web site, and shows a sample

database of aliases in his Table 2. But Barber neither teaches nor suggests that a given alias might identify both the target Web page and the specific advertiser (or acquirer), or that multiple different aliases could be used to represent the same target Web page for different advertisers, as required by claim 15. Barber relates only to a single acquirer, and shows a single alias for each different target address in Table 2.

In rejecting claim 10 in the Official Action of March 26, the Examiner states that the claimed method of assigning an alias specifically to a given advertiser among a plurality of advertisers is obvious because "merchants have to be able to identify the web page the user is coming from by the means of assigning identifying parameters to the concealed URLs for each advertising web site." In the method recited by claim 15, however, the user (or buyer) does not access the merchant's Web page at all. Rather, the buyer accesses the advertiser's site, and the advertiser then places an order with merchant for supply of the item purchased by the user.

~~This mode of operation allows the advertiser to share in~~ page-per-fee revenues, in a novel manner not provided by the prior art. In placing the order with the merchant, the advertiser could use an identification code to identify himself (as noted, for example, on page 15, line 9, of the specification). The advertiser-specific alias, however, provides more efficient and reliable means for tracking the identity of the advertiser who has placed the order, which is not suggested by the prior art.

Barber makes no suggestion that his method might be modified in some way to accommodate multiple acquirers, and he certainly does not suggest assigning different aliases to different advertisers. Numerous court

decisions emphasize that a finding of obviousness is improper unless the prior art suggests the actual combination of elements recited in the claim. For example, the Federal Circuit Court stated *In re Newell*, 891 F.2d 899, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989): "[I]n deciding that a novel combination would have been obvious, there must be supporting teaching in the prior art... [A] retrospective view of inherency is not a substitute for some teaching or suggestion which supports the selection and use of the various elements in the particular claimed combination."

Messer describes a data processing system for managing transaction-related information generated on a network, including referral fee accounting for purchases. These functions are performed by a Clearinghouse server, which communicates with merchants and with site owners, who advertise the merchants' products on their Web sites (see Figs. 1 and 2, and col. 5, lines 4-16). Messer is not concerned with page-per-fee purchases of information, as required by claim 15, and makes no mention or suggestion of this type of commerce. - More specifically, Messer neither teaches nor suggests the use of any sort of alias, let alone multiple different aliases for different advertisers.

Thus, applicant respectfully submits that claim 15 as amended is patentable over both Barber and Messer, whether these references are taken alone or in combination. In view of the patentability of claim 15, claims 16-20 and 23, which depend from claim 15, are believed to be patentable, as well.

Claim 27 recites a merchant processor for use in electronic commerce, while claim 33 recites a computer software product for use by a merchant. The apparatus

and software covered by these claims operate on principles similar to those recited in method claim 15, and these claims have been amended in a manner similar to the amendment of claim 15. Therefore, applicant respectfully submits that amended claims 27 and 33 are patentable over Barber and Messer, as well, for the reasons argued above. In view of the patentability of claims 27 and 33, claims 28, 29, 34 and 35, which depend from either claim 27 or claim 33, are also believed to be patentable.

Claims 1-14, 17-19, 21-26, 29-32 and 35 were rejected under 35 U.S.C. 103(a) over Messer in view of Barber. While disagreeing with the grounds of rejection cited by the Examiner, applicant has amended claims 1, 24 and 30 to incorporate the limitations of claims 7, 8, 10, 21 and 22, now canceled, along with additional clarifying language, in a manner similar to the amendment of claims 15, 24 and 33. Claim 9 has been amended to correct its antecedence in view of the cancellation of claim 8, from which it previously depended. Applicant reserves the right to reintroduce broader claim language in a continuation of the present patent application.

Amended claim 1 recites a method for electronic advertising that includes posting an advertisement for a page-per-fee item. The item is offered to a buyer for purchase via a link to a network address that is represented in the advertisement by an alias, which conceals the network address from the buyer. Each of a plurality of advertisers receives a different alias, which identifies both the network address and the specific advertiser. When the buyer invokes the link, the advertiser transmits an order to the merchant for supply of the item to the buyer. The alias is thus

useful both in identifying the advertiser to the merchant (page 5, lines 28-30, in the present patent application) and in preventing the buyer from circumventing the advertiser in subsequent purchases (page 6, lines 19-24).

Claim 1 as amended is believed to be patentable over the cited art for the reasons argued above with reference to amended claim 15. For the sake of brevity, these arguments will not be repeated here. In view of the patentability of claim 1, claims 2-6, 9 and 11-14, which depend from claim 1, are believed to be patentable, as well.

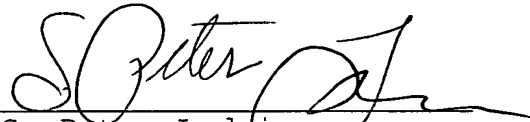
Claim 24 recites an advertising processor, while claim 30 recites a computer software product for electronic advertising. The apparatus and software covered by these claims operate on principles similar to those recited in method claim 1, and these claims have been amended in similar fashion to claim 1. Therefore, applicant respectfully submits that claims 24 and 30 are patentable over Messer in view of Barber, as well, for the reasons argued above. In view of the patentability of claims 24 and 30, claims 25-29 and claims 31 and 32, which depend from either claim 24 or claim 30, are also believed to be patentable.

Applicant believes the amendments and remarks presented hereinabove to be fully responsive to all of the grounds of rejection and objections raised by the examiner.

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In view of these remarks, applicant respectfully submits that all of the claims in the present application are in order for allowance. Notice to this effect is hereby requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "S. Peter Ludwig", written over a horizontal line.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of : **HERZBERG et al.**

Serial No.: 09/625,006

:
: Group Art Unit: 3621

Filed : July 25, 2000

: Examiner: Kambiz Abdi

For : MICRO PAYMENT-BASED ADVERTISING

April 28, 2003

Honorable Commissioner of
Patents and Trademarks
Washington, DC 20231

APPENDIX - AMENDED CLAIMS WITH CHANGES MARKED

1. (Amended) A method for electronic advertising by an
advertiser among a plurality of advertisers, comprising:

receiving a respective alias from among a plurality of different aliases provided by a merchant to represent a network address of an item offered by the merchant on a page per fee basis at a predetermined price, such that all of the plurality of aliases represent the same network address, and each of the plurality of aliases is assigned by the merchant to correspond specifically to a respective one of the plurality of advertisers;

posting an advertisement [for an] offering the item [offered to a] to the buyer for purchase [from a merchant on a page per fee basis at a predetermined price] via a network link represented in the advertisement by [an] the respective alias, which conceals the network address from the buyer;

receiving an invocation of the link from the buyer;

responsive to the invocation, transmitting an order to the merchant for supply of the item to the buyer in exchange for payment of the price by the buyer, the order comprising a message including the respective alias;

conveying the item, responsive to the order, from ~~the merchant to the buyer; and~~

receiving a predefined portion of the price paid by the buyer in consideration for posting the advertisement.

9. (Amended) A method according to claim [8] 1, wherein [passing the alias] transmitting the order comprises passing the alias in a coded form.

15. (Amended) A method for electronic commerce by a merchant, comprising:

offering an item for purchase by a buyer on a page per fee basis at a predetermined price via a network link;

assigning a respective alias to each of a plurality of different advertisers, from among a plurality of different aliases provided by the merchant to represent a network address of the item, such that all of the plurality of aliases represent the same network address, and each of the plurality of aliases is assigned to correspond specifically to a respective one of the plurality of advertisers;

defining terms for advertising, in accordance with which [an advertiser] each of the advertisers posts an advertisement for the item, the advertisement containing the alias, which serves as a reference to the network link while concealing the network link from the buyer;

receiving from [the] an advertiser among the plurality of different advertisers an order for supply of the item to the buyer responsive to invocation of the link in the advertisement by the buyer, the order comprising a message including the respective alias;

conveying the item, responsive to the order, via the advertiser to the buyer; and

~~receiving payment from the buyer for the item, while~~ a predefined portion of the price is paid to the advertiser in consideration for posting the advertisement, in accordance with the terms of advertising.

24. (Amended) Apparatus for electronic advertising by an advertiser among a plurality of advertisers, comprising an advertising processor, which is adapted to receive a respective alias from among a plurality of different aliases provided by a merchant to represent a network address of an item offered by the merchant on a page per fee basis at a predetermined price, such that all of the

plurality of aliases represent the same network address,
and each of the plurality of aliases is assigned by the
merchant to correspond specifically to a respective one
of the plurality of advertisers, and to post an
advertisement [for an] offering the item [offered to a]
to the buyer for purchase [from a merchant on a page per
fee basis at a predetermined price] via a network link to
a network address represented in the advertisement by
[an] the respective alias, which conceals the network
address from the buyer, and responsive to receiving an
invocation of the link by the buyer, to transmit an order
to the merchant for supply of the item to the buyer in
exchange for payment of the price by the buyer, the order
comprising a message including the respective alias, to
convey the item, responsive to the order, from the
merchant to the buyer, and to receive a predefined
portion of the price paid by the buyer in consideration
for posting the advertisement.

27. (Amended) Apparatus for electronic commerce for use
by a merchant, comprising a merchant processor, which is
adapted to offer an item for purchase by a buyer on a
page per fee basis at a predetermined price via a network
link, and to assign a respective alias to each of a
plurality of different advertisers, from among a
plurality of different aliases provided by the merchant
to represent a network address of the item, such that all
of the plurality of aliases represent the same network
address, and each of the plurality of aliases is assigned
to correspond specifically to a respective one of the
plurality of advertisers, with defined terms for
advertising the item in accordance with which [an
advertiser] each of the advertisers posts an

advertisement for the item, the advertisement containing the alias, which serves as a reference to the network link while concealing the network link from the buyer,

the processor being further adapted to convey the item via [the] an advertiser among the plurality of different advertisers to the buyer in response to an order received from the advertiser for supply of the item to the buyer responsive to invocation of the link in the advertisement by the buyer, the order comprising a message including the respective alias of the advertiser, and to receive payment from the buyer for the item, while a predefined portion of the price is paid to the advertiser in consideration for posting the advertisement, in accordance with the terms of advertising.

30. (Amended) A computer software product for electronic advertising by an advertiser among a plurality of advertisers, the product comprising a computer-readable medium in which program instructions are stored, which instructions, ~~when read by a computer, cause to computer~~ to receive a respective alias from among a plurality of different aliases provided by a merchant to represent a network address of an item offered by the merchant on a page per fee basis at a predetermined price, such that all of the plurality of aliases represent the same network address, and each of the plurality of aliases is assigned by the merchant to correspond specifically to a respective one of the plurality of advertisers, and to post an advertisement [for an] offering the item [offered to a] to the buyer for purchase [from a merchant on a page per fee basis at a predetermined price] via a network link to a network address represented in the

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advertisement by [an] the respective alias, which conceals the network address from the buyer, and responsive to receiving an invocation of the link from the buyer, to transmit an order to the merchant for supply of the item to the buyer in exchange for payment of the price by the buyer, the order comprising a message including the respective alias, to convey the item, responsive to the order, from the merchant to the buyer, and to receive a predefined portion of the price paid by the buyer in consideration for posting the advertisement.

33. (Amended) A computer software product for electronic commerce for use by a merchant, the product comprising a computer-readable medium in which program instructions are stored, which instructions, when read by a computer, cause to computer to offer an item for purchase by a buyer on a page per fee basis at a predetermined price via a network link, and to assign a respective alias to each of a plurality of different advertisers, from among a plurality of different aliases provided by the merchant to represent a network address of the item, such that all of the plurality of aliases represent the same network address, and each of the plurality of aliases is assigned to correspond specifically to a respective one of the plurality of advertisers, with defined terms for advertising the item in accordance with which [an advertiser] each of the advertisers posts an advertisement for the item, the advertisement containing the alias, which serves as a reference to the network link while concealing the network link from the buyer,

the instructions further causing the computer to convey the item via [the] an advertiser among the plurality of different advertisers to the buyer in

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response to an order received from the advertiser for supply of the item to the buyer responsive to invocation of the link in the advertisement by the buyer, the order comprising a message including the respective alias of the advertiser, and to receive payment from the buyer for the item, while a predefined portion of the price is paid to the advertiser in consideration for posting the advertisement, in accordance with the terms of advertising.